

2025:PHHC:003773



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

305 (Two cases)

1. CRM-M-47565-2023 (O&M)

Gulab Khan @ Ashu ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-12836-2024 (O&M)

Amandeep Singh alias Amna ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision: 14.01.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajdeep Singh Gill, Advocate
for the petitioner in CRM-M-47565-2023.

Mr. Nirmaljeet Singh Sidhu, Advocate
for the petitioner in CRM-M-12836-2024.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in these petitions, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioners in FIR No. 162 dated 19.10.2022, registered under Sections 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Kabarwala, District Sri Muktsar Sahib.

2. Brief facts of the case relevant for the disposal of the present petition are that on 19.10.2022, the petitioners were apprehended by a police party headed by ASI Shivraj Singh and recovery of 3500 tablets of Tramadol Hydrochloride was effected from petitioner Amandeep Singh alias Amna,

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whereas 3000 tablets of Tramadol Hydrochloride were recovered from petitioner Gulab Khan @ Ashu. They both were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioners are facing trial for commission of aforesaid mentioned offence.

3. Learned counsels for the petitioners have argued that the petitioners have been falsely implicated in this case. In fact, the recovery of the alleged contraband, shown to have been effected from the petitioners was planted by the police officials. Mandatory provisions of the NDPS Act were not complied with. The story put forth by the police party is concocted one. Investigation has since been completed and *challan* has been presented. The trial is likely to take a long time. The petitioners are in custody since 19.10.2022. No useful purpose would be served by keeping them in custody anymore. It is, therefore, urged that the petitions deserve to be allowed.

4. Separate replies have been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has argued that the petitioners were apprehended by the police party on 19.10.2022 and recovery of 3000 and 3500 tablets of Tramadol Hydrochloride was effected from them, respectively. Since the quantity of the recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioners. During the course of recovery and further investigation, proper procedure as prescribed under the NDPS Act was followed. Trial may be expedited. The criminal antecedents of the petitioners are not clean as they are involved in several other cases. It is also argued that if the petitioners are released on bail, they may abscond or indulge in the similar offences. It is,

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thus, argued that the petitions are liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, the petitioners were apprehended by the police party on 19.10.2022 and recovery of 3500 tablets of Tramadol Hydrochloride was effected from petitioner Amandeep Singh alias Amna, whereas 3000 of the same salt were recovered from petitioner Gulab Khan @ Ashu. The quantity of the recovered contraband obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioners. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the NDPS Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. There is nothing on record to show that there would be any undue delay in conclusion of trial. Since the petitioners are shown to be having criminal antecedents, the apprehension expressed by learned Deputy Advocate General, Punjab that the petitioners, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioners do not deserve to be granted benefit of regular bail, at this stage. Hence, the petitions are dismissed.

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7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.
8. Let a photocopy of this order be placed on the file of the connected case.

14.01.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>